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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/658,746	09/10/2003	Oliver Horn	008388-7	3402

22204 7590 04/29/2005  
NIXON PEABODY, LLP  
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WASHINGTON, DC 20004-2128

EXAMINER

FORD, JOHN K

ART UNIT	PAPER NUMBER
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3753

DATE MAILED: 04/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/658,746

Applicant(s)

HORN ET AL.

Examiner

John K. Ford

Art Unit

3753

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 2/4/05
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 4-9 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 10-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 9/10/03
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

Applicant's election of the species of figure 1, without traverse, is acknowledged. Applicant has identified claims 1-3 and 10-12 as readable on figure 1.

Applicant's remarks about whether claim 1 is generic are moot in light of the election of figure 1. It is submitted however that the "heat source positioned in the heat transfer medium circuit" recitation in claim 1 is implicitly claiming connections to an engine, in so far as the Examiner understands the claims.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 10 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Herta (2002/0100290).

In presenting this rejection the Examiner explicitly incorporated by reference MPEP 2114 and its determination of how functional language regarding intended manners of operation and intended functions are not given patentable weight in claims directed to apparatus.

Herta discloses all of the claimed features of claim 1, including a compressor 21, condenser 22, evaporator 30, a heat source 10, a heat exchanger 17, a heat/cold reservoir 33 and a heating/cooling surface 12, which heats a vehicle interior wall 37 by virtue of fan 13 blowing air through heating/cooling surface 12. Elements 12 and 17 are connected in parallel. Valve 20 controls flow of engine heat transfer medium through element 12. A circulation pump 18 is shown. A second evaporator 25 is shown.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combined teachings of Herta (2002/0100290) and Baier (4,300,720) and optionally Brocx (5,322,217).

Herta discloses all of the claimed features of claim 1, including a compressor 21, a condenser 22, evaporator 30, a heat source 10, a heat exchanger 17, and a heat/cold reservoir 33. No driver's bed heating/cooling surface is disclosed. Herta does disclose a compartment heater 12, however.

Baier teaches a driver's bed plate-type heat exchanger 18 connected in parallel with the compartment heater 10 to permit the sleeper area to be conditioned by the circulating medium (engine coolant).

To have connected a driver's bed plate-type heater in parallel, fluidically, with respect to heater 12 of Herta to permit Herta's system to comfortably condition an over-the-road truck with a sleeper compartment would have been obvious to one of ordinary skill in the art.


Brocx is optionally relied upon to teach the art recognized equivalence of using a main compartment heat exchanger alone (Figure 9) and a main heat exchanger and sleeper unit connected in parallel (Figure 10) thereby reinforcing the teachings of the combination of Herta/Baier discussed above, if there is any question about connecting heaters for different compartments fluidically in parallel with respect to the engine coolant.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Saperstein shows separate heat exchangers 68 and 69 for the operator's cab and sleeper section connected in parallel via ganged valves 70. Rafalovich discloses a heat/cold reservoir in an over-the-road truck. See Figures 5 and 6.

Any inquiry concerning this communication should be directed to John Ford at telephone number (571) 272-4911.

Ford/PJ

4/25/05



**John K. Ford**  
**Primary Examiner**